

Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

RYAN M. FOX, DDS, individually and on
behalf of others similarly situated,

Plaintiff,

v.

TRAVELERS CASUALTY INSURANCE
COMPANY OF AMERICA,

Defendants.

No. 2:20-cv-00598-RSM

UNOPPOSED MOTION FOR STAY OF
PROCEEDINGS PENDING RULING ON
CONSOLIDATION AND TRANSFER
BY JPML

[Filed concurrently with (Proposed)
Order.]

Noted for: June 9, 2020

Based on the pendency of a soon-to-be decided petition filed with the Judicial Panel on Multidistrict Litigation (“JPML”), which seeks transfer pursuant to 28 U.S.C. § 1407 of this case and others, Plaintiff Ryan M. Fox, DDS (“Plaintiff”) submits this unopposed motion and states as follows:

RECITALS

WHEREAS on April 21, 2020 Plaintiff filed a Class Action Complaint (Dkt. No. 1) naming Travelers Casualty Insurance Company of America as Defendant, and the Complaint was served on Defendant on April 24, 2020;

WHEREAS, a group of plaintiffs have filed various pleadings pursuant to 28 U.S.C. § 1407 in the JPML proceeding styled *In re COVID-19 Business Interruption Protection Insurance Litig.*

UNOPPOSED MOTION FOR STAY - 1
(2:20-CV-00598-RSM)

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1 seeking to consolidate and coordinate litigation against insurers for losses related to COVID-19
2 and/or state, city, and county executive orders (the “Related Actions”). See *In re COVID-19*
3 *Business Interruption Protection Insurance Litig.*, MDL Docket No. 2942;

4 WHEREAS, on May 5, 2020 Plaintiff’s counsel filed a Notice of Appearance in the JPML
5 proceeding (Dkt. No. 129) on behalf of Plaintiff in this matter noticing this action as an associated
6 case;

7 WHEREAS, the JPML has set a briefing schedule related to the consolidation of these
8 cases, with Plaintiff having filed a response brief on June 5, 2020 (Dkt. No. 247) and reply briefs
9 due on June 15, 2020 (Dkt. No. 156). The JPML is likely to consider the Plaintiffs’ motions to
10 transfer and for consolidation or coordination at the July 30, 2020 JPML Hearing Session;

11 WHEREAS, a stay of this matter is appropriate pending the JPML’s resolution of the
12 petitions before it, which will determine whether this case proceeds in this Court or is transferred
13 to an MDL proceeding for pretrial purposes;

14 WHEREAS, courts within this circuit routinely grant motions to stay proceedings pending
15 JPML action. See *Rivers v. Walt Disney Co.*, 980 F. Supp. 1358, 1362 (C.D. Cal. 1997) (“[a]
16 majority of courts have concluded that it is often appropriate to stay preliminary pretrial
17 proceedings while a motion to transfer and consolidate is pending with the MDL Panel because of
18 the judicial resources that are conserved.”); *Short v. Hyundai Motor Am. Inc.*, No. C19-0318JLR,
19 2019 WL 3067251, at *3 (W.D. Wash. July 12, 2019) (staying matter pending JMPL decision);
20 *Amadeck v. Capital One Fin. Corp.*, No. C12-0244RSL, 2012 WL 5472173, at *2 (W.D. Wash.
21 Nov. 9, 2012) (same); *Van Horn v. Korean Air Lines Co.*, No. C07-1228JLR, 2007 WL 9775632,
22 at *1 (W.D. Wash. Oct. 31, 2007) (same); *Good v. Prudential Ins. Co. of Am.*, 5 F. Supp. 2d 804,
23 809 (N.D. Cal. 1998) (same); *Eggart v. A.L.S. Enterprises, Inc.*, No. CV-09-0107-FVS, 2009 WL
24 1587904, at *1 (E.D. Wash. June 2, 2009) (“A stay ensures that there is consistent treatment of
25 numerous lawsuits and that judicial resources are not wasted.”); *Gonzalez v. Merck & Co.*, No.
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CV-07-3034-LRS, 2007 WL 2220286, at *2 (E.D. Wash. Aug. 2, 2007) (“well settled case law ... dictates a stay should be granted to promote judicial economy.”).

WHEREAS, no party will suffer prejudice, damage, hardship, or inequity from a stay of this case at this time;

WHEREAS, a stay will also conserve the Court’s resources and avoid potentially unnecessary and duplicative litigation burdens on the parties;

Plaintiff therefore moves the Court, and Defendant does not oppose the requested relief, that the Court stay this matter in its entirety, including but not limited to (1) all scheduling deadlines pursuant to the Federal Rules of Civil Procedure, Local Rules of the United States District Court for the Western District of Washington and this Honorable Court, (2) discovery, and (3) the deadline to answer or otherwise respond to Plaintiff’s Complaint, pending a ruling by the JPML concerning the transfer of this action for inclusion in MDL No. 2942 for consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. In the event that the JPML denies consolidation, the stay will automatically terminate seven (7) days after the JPML’s decision denying consolidation, and Defendant shall have twenty-one (21) additional days from the termination of the stay to answer, move, or otherwise plead in response to Plaintiff’s Complaint.

Nothing herein shall be deemed a waiver of any rights or defenses by any Party except as set forth herein.

DATED this 9th day of June, 2020.

KELLER ROHRBACK L.L.P.

By: s/ Ian S. Birk

By: s/ Amy Williams-Derry

By: s/ Lynn L. Sarko

By: s/ Gretchen Freeman Cappio

By: s/ Irene M. Hecht

By: s/ Maureen Falecki

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Attorneys for Plaintiff and the Proposed Classes

CERTIFICATE OF SERVICE

I certify that on 9th day of June, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to all known counsel of record.

By: s/ Ian S. Birk
Ian S. Birk